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PP RUEHWEB

DE RUEHSN #0186 0461423
ZNR UUUUU ZZH
P 151423Z FEB 08
FM AMEMBASSY SAN SALVADOR
TO RUEHC/SECSTATE WASHDC PRIORITY 9013
INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE
RUCPDO/DEPT OF COMMERCE WASHINGTON DC

UNCLAS SAN SALVADOR 000186

SIPDIS

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E.O. 12958: N/A

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SUBJECT: EL SALVADOR CLOSE TO IMPLEMENTING DATA EXCLUSIVITY
REGULATIONS

¶1. (SBU) SUMMARY. Nearly two years after ratifying CAFTA-DR, the Government of El Salvador is close to implementing "data exclusivity" intellectual property right regulations. The government has concluded its consultations, the Ministry of Health is finalizing the regulations for President Saca's signature, and the Ministry of Economy hopes the regulations will enter into force by late February. El Salvador is also close to accession on two intellectual property-related treaties. END SUMMARY.

¶2. (U) On February 8, Econoff met with Silvia Nasser and Gabriel Guardado, Public Procurement and Intellectual Property Negotiators in the Office of Commercial Policy, Ministry of Economy. Nasser and Guardado are also responsible for preparing El Salvador's foreign government submission to the Special 301 report.

¶3. (SBU) Nasser announced that the government had finally concluded its consultations on the second draft for data exclusivity regulations (NOTE the first draft was rejected by both government and industry groups END NOTE), which it agreed to implement under CAFTA-DR. The government successfully concluded consultations with the Consejo Superior de Salud Publica (Public Health Commission), domestic industry, and FEDEPHARMA, the Guatemala-based industry group representing both U.S. and European pharmaceutical companies. The regulations were now with the Ministry of Health, which has final responsibility for preparing the regulations for President Saca's signature. Nasser expected Saca to sign the regulations within two weeks and for them to enter into force by the end of February.

¶4. (SBU) Nasser stated that El Salvador was near accession to two intellectual property-related treaties that El Salvador was also required to join under CAFTA-DR. The Assembly had already ratified the "Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite," and the government was in the process of notifying the UN of its accession. The "Trademark Law Treaty" is currently in the Assembly, but Nasser expected it to be ratified by the end of February.

¶5. (SBU) COMMENT: Data exclusivity is El Salvador's last major outstanding IPR regulation, one of its last major outstanding CAFTA-DR commitments, and something that Post has long been pushing publicly and privately for the government to complete. The new regulations will be implemented through the executive, not the Assembly, and therefore might not be announced publicly. Post will follow up with the Ministry of Economy and Ministry of Health to ensure the regulations have entered into force. END COMMENT.
GLAZER